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IN THE

Supreme Court of the United States

October Term, 1977

No. 78-153

WASTE MANAGEMENT OF WISCONSIN, INC., d/b/a CITY DISPOSAL COMPANY,

Petitioner,

vs.

STATE OF WISCONSIN,

Respondent.

On Petition for Writ of Certiorari
To the Wisconsin Supreme Court

REPLY BRIEF OF PETITIONER IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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The Brief of Respondent in Opposition does not contest the contentions of the petitioner that the issues presented are substantial and that the decision of the Wisconsin Supreme Court is in conflict with the Constitution of the United States. All the respondent argues is that the Court is without jurisdiction. Presumably, the respondent does not contest the assertions of the petitioner because it agrees that if the Court has jurisdiction that the Court should review the decision of the Wisconsin Supreme Court.

The respondent does not contest the accuracy of the extensive statement of the case presented by the petitioner. The jurisdictional objections raised by the respondent demonstrate the need for the extensive presentation made in the petition. As fully demonstrated in the petition, the petitioner presented each and every federal claim both to the various trial courts and to the Wisconsin Supreme Court.[1] The respondent's claim that the federal questions were not presented is merely an extension of the blatant refusal of the Wisconsin courts in this case to address these questions. The Wisconsin Supreme Court in refusing to discuss the federal claims made stated that the Wisconsin Supreme Court was "not a performing bear, required to dance to each and every tune played on an appeal" and that "any of the 29 issues raised and not discussed . . . can be deemed to lack sufficient merit or importance to warrant individual attention."[2] 81 Wis. 2d at 564; Ap. 2. With that phrase, the Wisconsin Supreme Court decided many, if not all, federal claims adversely to the petitioner.

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[1] The petition at pp. 28 and 37 inadvertently refers to (Ap. 1-21) to demonstrate presentation of issues to the Wisconsin Supreme Court. The correct reference is Ap. 66-67.

[2] Under Wisconsin appellate practice, issues are determined in the "Argument" section of the brief, rather than the "Questions Involved." Thus, the Wisconsin Supreme Court acknowledged 29 issues rather than 16. The brief presented to the Wisconsin Supreme Court contained 29 issues easily distinguished by separate major headings. The brief of the petitioner, which is not a part of the record, amply demonstrates that the federal claims were presented to the Wisconsin courts. However, excerpts of the petitioner's brief to the Wisconsin Supreme Court have been printed in the Appendix at Ap. 66-67 to demonstrate that those issues not discussed by the Wisconsin Supreme Court were, in fact, presented to that court. See Petition, pp. 18, 28, 37. The statement of the case demonstrates at the appropriate places that all other issues were discussed by the Wisconsin Supreme Court. See Petition, pp. 21, 28, 39, 40, 45, 46, 47.

CONCLUSION

On the basis of the original petition and this reply, the petitioner respectfully requests that the Court grant its petition for a writ of certiorari to the Supreme Court of the State of Wisconsin.

Respectfully submitted,

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